



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the application of: John J. Harrington et al.

Application Serial No.: 09/484895

Filing Date: January 18, 2000

For: COMPOSITIONS AND MEHODS FOR  
NON-TARGETED ACTIVATION OF ENDOGENOUS  
GENES

Attorney Docket No.: ATX-007CP4DV7

Group Art Unit: 1636

Examiner: Q. Nguyen

Commissioner for Patents  
P.O. Box 1450, Alexandria, VA 22313-1450

**CERTIFICATE OF EXPRESS MAILING**

"Express Mail" mailing label number EV553871405US  
Date of Deposit September 26, 2005

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Shawham  
Signature

SAPNA MEHTANI  
Please Print Name of Person Signing

**TERMINAL DISCLAIMER**

Dear Sir:

I, Anne Brown, declare that I am authorized to execute this Terminal Disclaimer on behalf of Athersys, Inc., at 11000 Cedar Avenue, Cleveland, Ohio 44106.

I further certify that Athersys, Inc., is the owner of the above-referenced patent application and U.S. Patent No. 6,623,958, by virtue of Assignment document filed from inventors John J. Harrington, Bruce Sherf and Stephen Rundlett to Athersys, Inc., recorded at Reel No. 010064, Frame No. 0420, in Application Serial No. 09/276, 820, which the above-referenced application and U.S. Patent No. 6,623,958, are divisional applications of.

Pursuant to 35 U.S.C. §253 and 37 C.F.R. §1.321, Athersys, Inc. hereby disclaims the terminal portion of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term of U.S. Patent No. 6,623,958, issued

September 23, 2003. Athersys, Inc., also hereby agrees that any patent granted on the present application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to U.S. Patent No. 6,623,958. This terminal disclaimer applies to any patent granted on the present application and is binding upon the grantee, its successors or assignees.

Athersys, Inc. does not disclaim any terminal part of any patent granted on the present application prior to the expiration date of the full statutory term of U.S. Patent No. 6,623,958, in the event that U.S. Patent No. 6,623,958 expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutory disclaimed in whole or terminally disclaimed under 37 C.F.R. §1.32(a), has all claims canceled by a reexamination certificate, or is otherwise terminated prior to expiration of its statutory term as presently shortened by any terminal disclaimer.

Signed this 26 day of September, 2005, by:

Name:

Anne Brown *Anne Brown*

Title:

Senior Intellectual Property